

LYNN PINKER HURST SCHWEGMANN

CLINT COWAN
Associate

D 214 292 3647
F 214 981 3839
ccowan@lynnlp.com

Lynn Pinker Hurst & Schwegmann, LLP
2100 Ross Avenue
Suite 2700
Dallas, Texas 75201
lynnlp.com

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U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

Via ECF

Hon. Sandra J. Feuerstein, U.S.D.J.
Hon. Steven I. Locke, U.S.M.J.
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: *Aptive Environmental, LLC v. Village of East Rockaway*, No. 2:19-cv-3365
(SJF)(SIL); Plaintiff's Letter Response re: Damages Claim, in response to
the Court's Order [ECF 62]

Dear Judge Feuerstein:

On March 5, 2021, the Court issued its Order granting Plaintiff's Cross-Motion for Summary Judgment, finding Defendant's Solicitation Fee unconstitutional, and permanently enjoining enforcement of the Solicitation Fee. [ECF 62, at 5] (the "Order").

The Order also instructed Plaintiff to advise the Court, in writing, whether it intends to pursue its claim for damages in the second amended complaint. *Id.*

Although Plaintiff has incurred damages from Defendant's unconstitutional actions, Plaintiff wishes to resolve the case and does not wish to burden the Court further with this dispute. Therefore, Plaintiff will not be pursuing the damages claim asserted in the second amended complaint.

Plaintiff therefore respectfully requests the Court enter final judgment

(A) declaring that the Village's Solicitation Fee, found at §§ 171-3 and 171-5(A) of the Village Code, violates the First Amendment rights of Aptive, others similarly situated, and Village residents, both facially and as applied, *and*

(B) permanently enjoining the Village, and its agents and employees, from enforcing the Solicitation Fee found at §§ 171-3 and 171-5(A) of the Village Code against Aptive and others similarly situated.

Plaintiff has also attempted to confer with Defendant and reach a settlement for Plaintiffs' reasonable attorneys' fees, expenses, costs, and taxable costs incurred in this matter under 42 U.S.C. § 1988 and 28 U.S.C. § 1920. Thus far, Defendant has not agreed

to a settlement of these fees, expenses, and costs. Plaintiff will continue conferring with Defendant to attempt to resolve these fee claims without judicial intervention. If Defendant does not agree to a settlement, Plaintiff will file its motion for attorneys' fees and expenses, Notice of Taxation of Costs, and Bill of Costs according to the deadlines in Fed. R. Civ. P. 54 and L.R. 54.

Plaintiff thanks the Court for its time and attention in resolving the constitutional claims in this suit, and looks forward to the Telephone Status Conference set for April 14, 2021.

Dated: March 19, 2021

Respectfully submitted,



Clint Cowan, admitted *pro hac vice*
Counsel for Plaintiff

Cc: Counsel of Record (via ECF)

Order:

Plaintiff's remaining claim for damages is dismissed. The Clerk of the Court shall enter judgment in accordance with the Court's March 5, 2021 order and close this case.

So Ordered.
3/19/2021



United States District Judge